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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,709	07/17/2003	Nancy Karapasha	9330	1538

27752 7590 08/22/2005

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EXAMINER

HILL, LAURA C

ART UNIT PAPER NUMBER

3761

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,709

Applicant(s)

KARAPASHA, NANCY

Examiner

Laura C. Hill

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Language Interpretation

1. The outer surface of the insertion member as recited in claim 1, line 3 is interpreted to be any surface on the outside of any portion of the insertion member body. Therefore, the outer surface of insertion member 12 is the outermost surface of the raised portion 18 located in the finger grip region of the insertion member 12 as discussed below and shown in figure 2.
2. The broad language of "from about" when referring to the depth and height dimensions as recited in claims 3-4, 11-12 and 16-17 are interpreted to include values near to or approximating the ranges claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Campion et al.* (US 5,346,468). Regarding claims 1 and 9 *Campion et al.* discloses an applicator comprising:

A tubular tampon holder/insertion member 12 adapted to house a tampon 13 and plunger 20;

Said tampon holder/insertion member 12 having a finger grip region disposed on the outer surface;

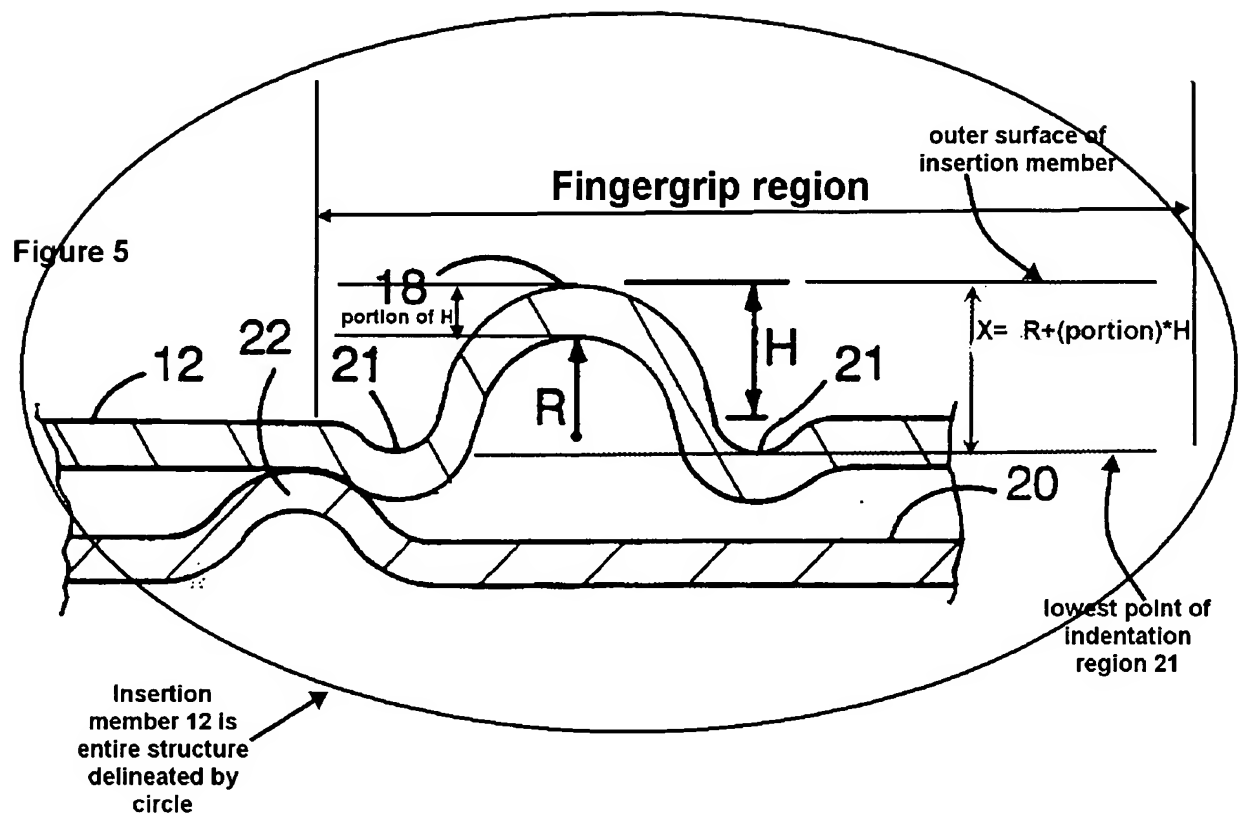
Art Unit: 3761

Said finger grip region comprising a slight depression/indentation region 21 having a depth dimension $X = (\text{radius curvature}) + \text{some unknown portion of } H$;

Said indentation region 21 having rings/raised portions 18 having a height dimension H/Y ;

Said height dimension H/Y is less than depth dimension X (figures 1, 5-6, col. 2, ll. 54-60 and 66-col. 3, line 5, col. 4, ll. 55-63).

The indentation region depth dimension X of claim 1 is interpreted to be the distance $(R + \text{unknown portion} * H)$ between the outer surfaces of ring/raised portion 18, [which is part of insertion member 12] to the lowest point of depression/indentation region 21 as denoted by figure 2. The raised portion Y dimension is the distance (H) between the base to highest point of depression/indentation region 21 as seen in figure 2.



Regarding claims 2, 5, 10 and 15 Campion et al. discloses a paper tampon holder 12 and in another embodiment a plastic plunger 20 (col. 3, ll. 10-15 and 26-30).

Regarding claims 3-4, 11-12 and 16-17 Campion et al. discloses

An indentation depth dimension $X = R + (\text{some unknown portion}) * H$

$$= (1.27-1.52\text{mm}) + (\text{some unknown portion of } 0.25-0.38\text{mm})$$

$$= \text{from about } 1.27-1.9 \text{ mm}$$

Regarding claims 6-8, 13-14 and 18-20 Campion et al. discloses circular-shaped indentation region 21 and raised portions 18, wherein the raised portions are in a circular pattern (figure 5).

Response to Arguments

4. Applicant's arguments filed 6 July 2005 have been fully considered but they are not persuasive. Claims 1-20 stand rejected under 35 USC 102(b) as being anticipated by *Campion et al.* (US 5,346,468) as discussed above. Note that insertion member 12 as recited in claim 1 refers to the entire tubular body as seen in figure 1 and as delineated by the circle in annotated figure 2, not just the outer surface edge that the line points to in figure 5 as suggested by Applicant when delineating the 'X dimension'. The top outermost edge that Applicant has delineated as the outer component of X (i.e.: an axis that is parallel with dotted point which defines R in figure 5) is incorrect because 'X' is measured from an outer surface of the insertion member 12 the insertion member refers to the entire structure as discussed above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill
Examiner
Art Unit 3761

LCH,



TATYANA ZALUKAEVA
PRIMARY EXAMINER

